

# House Amendment 1488

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1 1 Amend Senate File 344, as amended, passed, and  
1 2 reprinted by the Senate, as follows:  
1 3 #1. By striking everything after the enacting  
1 4 clause and inserting the following:  
1 5 1 6 LIABILITY REFORM  
1 7 Section 1. Section 625A.9, Code 2003, is amended  
1 8 to read as follows:  
1 9 625A.9 EXECUTION ON UNSTAYED PART OF JUDGMENT ==  
1 10 SUPERSEDEAS BOND WAIVED.  
1 11 1. The taking of the appeal from part of a  
1 12 judgment or order, and the filing of a bond as above  
1 13 directed, does not stay execution as to that part of  
1 14 the judgment or order not appealed from.  
1 15 2. If the judgment or order appealed from is for  
1 16 money, such bond shall not exceed one hundred ten  
1 17 percent of the amount of the money judgment.  
1 18 3. Upon motion and for good cause shown, the  
1 19 district court may stay all proceedings under the  
1 20 order or judgment being appealed and permit the state  
1 21 or any of its political subdivisions to appeal a  
1 22 judgment or order to the supreme court without the  
1 23 filing of a supersedeas bond.  
1 24 Sec. 2. Section 668.12, Code 2003, is amended to  
1 25 read as follows:  
1 26 668.12 LIABILITY FOR PRODUCTS == ~~STATE OF THE ART~~  
1 27 ~~DEFENSE DEFENSES.~~  
1 28 1. In any action brought pursuant to this chapter  
1 29 against an assembler, designer, supplier of  
1 30 specifications, distributor, manufacturer, or seller  
1 31 for damages arising from an alleged defect in the  
1 32 design, testing, manufacturing, formulation,  
1 33 packaging, warning, or labeling of a product, a  
1 34 percentage of fault shall not be assigned to such  
1 35 persons if they plead and prove that the product  
1 36 conformed to the state of the art in existence at the  
1 37 time the product was designed, tested, manufactured,  
1 38 formulated, packaged, provided with a warning, or  
1 39 labeled.  
1 40 2. Nothing contained in this section subsection 1  
1 41 shall diminish the duty of an assembler, designer,  
1 42 supplier of specifications, distributor, manufacturer  
1 43 or seller to warn concerning subsequently acquired  
1 44 knowledge of a defect or dangerous condition that  
1 45 would render the product unreasonably dangerous for  
1 46 its foreseeable use or diminish the liability for  
1 47 failure to so warn.  
1 48 3. An assembler, designer, supplier of  
1 49 specifications, distributor, manufacturer, or seller  
1 50 shall not be subject to liability under a theory of  
2 1 civil conspiracy unless the person knowingly and  
2 2 voluntarily entered into an agreement, express or  
2 3 implied, to participate in a common plan with the  
2 4 intent to commit a tortious act upon another. Mere  
2 5 membership in a trade or industrial association or  
2 6 group is not, in and of itself, evidence of such an  
2 7 agreement.  
2 8 Sec. 3. Section 668A.1, subsection 1, Code 2003,  
2 9 is amended to read as follows:  
2 10 1. In a trial of a claim involving the request for  
2 11 punitive or exemplary damages, the court shall  
2 12 instruct the jury to answer special interrogatories  
2 13 or, if there is no jury, shall make findings,  
2 14 indicating all of the following:  
2 15 a. Whether, by a preponderance of clear, and  
2 16 convincing, and satisfactory evidence, the conduct of  
2 17 the defendant from which the claim arose constituted  
2 18 willful and wanton disregard for the rights or safety  
2 19 of another.  
2 20 b. Whether the conduct of the defendant was  
2 21 directed specifically at the claimant, or at the  
2 22 person from which the claimant's claim is derived.  
2 23 c. Whether, by a preponderance of clear and  
2 24 convincing evidence, the conduct of the defendant from  
2 25 which the claim arose constituted actual malice.

2 26 Sec. 4. NEW SECTION. 668A.2 DEFINITIONS.

2 27 As used in this chapter, the following terms shall  
2 28 have the following meanings:

2 29 1. "Clear and convincing evidence" means evidence  
2 30 which leaves no serious or substantial doubt about the  
2 31 correctness of the conclusions drawn from the  
2 32 evidence. It is more than a preponderance of  
2 33 evidence, but less than beyond a reasonable doubt.

2 34 2. "Malice" means either conduct which is  
2 35 specifically intended by the defendant to cause  
2 36 tangible or intangible serious injury to the plaintiff  
2 37 or conduct that is carried out by the defendant both  
2 38 with a flagrant indifference to the rights of the  
2 39 plaintiff and with a subjective awareness that such  
2 40 conduct will result in tangible serious injury.

2 41 Sec. 5. NEW SECTION. 668A.3 AWARD OF PUNITIVE OR  
2 42 EXEMPLARY DAMAGES == PROOF == STANDARD.

2 43 Punitive or exemplary damages shall only be awarded  
2 44 where the plaintiff proves by clear and convincing  
2 45 evidence that the plaintiff's harm was the result of  
2 46 actual malice. This burden of proof shall not be  
2 47 satisfied by proof of any degree of negligence,  
2 48 including gross negligence.

2 49 DIVISION II  
2 50 WORKERS' COMPENSATION

3 1 Sec. 6. Section 85.34, subsection 2, unnumbered  
3 2 paragraph 1, Code 2003, is amended to read as follows:

3 3 Compensation for permanent partial disability shall  
3 4 begin at the termination of the healing period  
3 5 provided in subsection 1. The compensation shall be  
3 6 in addition to the benefits provided by sections 85.27  
3 7 and 85.28. The compensation shall be based only upon  
3 8 the extent of the disability related to the injury  
3 9 received and upon the basis of eighty percent per week

3 10 of the employee's average spendable weekly earnings,  
3 11 but not more than a weekly benefit amount, rounded to  
3 12 the nearest dollar, equal to one hundred eighty-four  
3 13 percent of the statewide average weekly wage paid  
3 14 employees as determined by the department of workforce  
3 15 development under section 96.19, subsection 36, and in  
3 16 effect at the time of the injury. The minimum weekly  
3 17 benefit amount shall be equal to the weekly benefit  
3 18 amount of a person whose gross weekly earnings are  
3 19 thirty-five percent of the statewide average weekly  
3 20 wage. For all cases of permanent partial disability  
3 21 compensation shall be paid as follows:

3 22 Sec. 7. Section 85.34, Code 2003, is amended by  
3 23 adding the following new subsection:

3 24 NEW SUBSECTION. 7. APPORTIONMENT. When an  
3 25 employee suffers successive work-related injuries or  
3 26 illnesses, an employer is not liable for that portion  
3 27 of an employee's disability that is caused by any  
3 28 preexisting injury or illness that is separate and  
3 29 discrete from the injury or illness for which  
3 30 compensation is claimed. Evidence that an employee  
3 31 has received a prior award for payment of benefits or  
3 32 entered into a prior settlement of any claim arising  
3 33 under this chapter or chapter 85A, 85B, or 86 creates  
3 34 a presumption that the employee has suffered a  
3 35 preexisting work-related injury or illness that is  
3 36 separate and discrete from the injury or illness for  
3 37 which benefits are claimed and that the extent of  
3 38 disability caused by that preexisting injury or  
3 39 illness has been determined. An employee who suffers  
3 40 from a disability caused in part by a preexisting  
3 41 injury or illness that is separate and discrete from  
3 42 the injury or illness for which compensation is  
3 43 claimed, such that the employer is not liable for that  
3 44 portion of the employee's disability, shall receive  
3 45 compensation for the employee's disability at the  
3 46 employee's weekly benefit amount as provided in this  
3 47 section plus an additional ten percent.

3 48 DIVISION III  
3 49 FINANCIAL SERVICES

3 50 Sec. 8. Section 537.2502, subsections 3 and 6,  
4 1 Code 2003, are amended to read as follows:

4 2 3. A delinquency charge shall not be collected  
4 3 under subsection 1, paragraph "a", on an installment  
4 4 which that is paid in full within ten days after its  
4 5 scheduled or deferred installment due date even though  
4 6 an earlier maturing installment or a delinquency or

4 7 deferral charge on an earlier installment may not have  
4 8 been paid in full. For purposes of this subsection,  
4 9 payments associated with a precomputed transaction are  
4 10 applied first to current installments and then to  
4 11 delinquent installments.

4 12 6. A delinquency charge shall not be collected  
4 13 under subsection 4 on a payment ~~which associated with~~  
4 14 ~~a precomputed transaction that is paid in full on or~~  
4 15 before its scheduled or deferred due date even though  
4 16 an earlier maturing payment or a delinquency or  
4 17 deferred charge on an earlier payment has not been  
4 18 paid in full. For purposes of this subsection,  
4 19 payments are applied first to amounts due for the  
4 20 current billing cycle and then to delinquent payments.

4 21 Sec. 9. Section 537.2601, subsection 1, Code 2003,  
4 22 is amended to read as follows:

4 23 1. ~~Except as provided in subsection 2, with With~~  
4 24 respect to a credit transaction other than a consumer  
4 25 credit transaction, the parties may contract for the  
4 26 payment by the debtor of any finance or other charge  
4 27 as permitted by law. ~~Except with respect to debt~~  
4 28 ~~obligations issued by a government, governmental~~  
4 29 ~~agency or instrumentality, in calculating any finance~~  
4 30 ~~charge contracted for, any month may be counted as~~  
4 31 ~~one-twelfth of a year, but a day is to be counted as~~  
4 32 ~~one three-hundred sixty-fifth of a year.~~

#### 4 33 DIVISION IV

#### 4 34 UNEMPLOYMENT COMPENSATION SURCHARGE

4 35 Sec. 10. Section 96.7, subsection 12, paragraph a,  
4 36 Code 2003, is amended to read as follows:

4 37 a. An employer other than a governmental entity or  
4 38 a nonprofit organization, subject to this chapter,  
4 39 shall pay an administrative contribution surcharge  
4 40 equal in amount to one-tenth of one percent of federal  
4 41 taxable wages, as defined in section 96.19, subsection  
4 42 37, paragraph "b", subject to the surcharge formula to  
4 43 be developed by the department under this paragraph.  
4 44 The department shall develop a surcharge formula that  
4 45 provides a target revenue level of no greater than six  
4 46 million five hundred twenty-five thousand dollars  
4 47 ~~annually for calendar years 2003, 2004, and 2005 and a~~  
4 48 ~~target revenue level of no greater than three million~~  
4 49 ~~two hundred sixty-two thousand five hundred dollars~~  
4 50 ~~for calendar year 2006 and each subsequent calendar~~  
5 1 ~~year.~~ The department shall reduce the administrative

5 2 contribution surcharge established for any calendar  
5 3 year proportionate to any federal government funding  
5 4 that provides an increased allocation of moneys for  
5 5 workforce development offices, under the federal  
5 6 employment services financing reform legislation. Any  
5 7 administrative contribution surcharge revenue that is  
5 8 collected in calendar year ~~2002~~ 2003, 2004, or 2005 in  
5 9 excess of six million five hundred twenty-five  
5 10 thousand dollars or in calendar year 2006 or a  
5 11 subsequent calendar year in excess of three million  
5 12 two hundred sixty-two thousand five hundred dollars

5 13 shall be deducted from the amount to be collected in  
5 14 the subsequent calendar year 2003 before the  
5 15 department establishes the administrative contribution  
5 16 surcharge. The department shall recompute the amount  
5 17 as a percentage of taxable wages, as defined in  
5 18 section 96.19, subsection 37, and shall add the  
5 19 percentage surcharge to the employer's contribution  
5 20 rate determined under this section. The percentage  
5 21 surcharge shall be capped at a maximum of seven  
5 22 dollars per employee. The department shall adopt  
5 23 rules prescribing the manner in which the surcharge  
5 24 will be collected. Interest shall accrue on all  
5 25 unpaid surcharges under this subsection at the same  
5 26 rate as on regular contributions and shall be  
5 27 collectible in the same manner. Interest accrued and  
5 28 collected under this paragraph and interest earned and  
5 29 credited to the fund under paragraph "b" shall be used  
5 30 by the department only for the purposes set forth in  
5 31 paragraph "c".

5 32 Sec. 11. Section 96.7, subsection 12, paragraph d,  
5 33 Code 2003, is amended to read as follows:

5 34 d. This subsection is repealed July 1, ~~2003~~ 2006,  
5 35 and the repeal is applicable to contribution rates for  
5 36 calendar year ~~2004~~ 2007 and subsequent calendar years.

5 37 Sec. 12. EFFECTIVE DATE. This division of this

5 38 Act, concerning the unemployment compensation  
5 39 surcharge, being deemed of immediate importance, takes  
5 40 effect upon enactment.

5 41 DIVISION V  
5 42 ECONOMIC DEVELOPMENT

5 43 Sec. 13. NEW SECTION. 15E.18 CITIES, COUNTIES,  
5 44 AND REGIONS == SITE PREPARATION FOR TARGETED ECONOMIC  
5 45 DEVELOPMENT.

5 46 1. For purposes of this section, "region" means a  
5 47 group of two or more contiguous counties that  
5 48 establishes a single, focused economic development  
5 49 effort.

5 50 2. A city, county, or region, subject to the  
6 1 approval of the property owner, may designate an area  
6 2 within the boundaries of the city, county, or region  
6 3 for a specific type of targeted economic development.  
6 4 The specific type of targeted economic development  
6 5 shall be one of the following:

- 6 6 a. Manufacturing.
- 6 7 b. Light industrial.
- 6 8 c. Warehouse and distribution.
- 6 9 d. Office parks.
- 6 10 e. Business and commerce parks.
- 6 11 f. Research and development.

6 12 3. A city, county, or region that designates an  
6 13 area for a specific type of targeted economic  
6 14 development may apply to the department for purposes  
6 15 of certifying the area as a preapproved development  
6 16 site. The department shall develop criteria for the  
6 17 certification process.

6 18 4. Prior to a specific project being developed, a  
6 19 city, county, or region designating the area for  
6 20 targeted economic development pursuant to this section  
6 21 may apply for and obtain appropriate licenses,  
6 22 permits, and approvals for the type of targeted  
6 23 economic development project desired for the area.

6 24 Sec. 14. NEW SECTION. 15E.19 REGULATORY  
6 25 ASSISTANCE.

6 26 1. The department of economic development shall  
6 27 coordinate all regulatory assistance for the state of  
6 28 Iowa. Each state agency with regulatory programs for  
6 29 business shall maintain a coordinator within the  
6 30 office of the director or the administrative division  
6 31 of the state agency. Each coordinator shall do all of  
6 32 the following:

- 6 33 a. Serve as the department of economic  
6 34 development's primary contact for regulatory affairs.
- 6 35 b. Provide regulatory requirements to businesses  
6 36 and represent the agency in the private sector.
- 6 37 c. Monitor permit applications and provide timely  
6 38 permit status information to the department of  
6 39 economic development.
- 6 40 d. Have the ability to require regulatory staff  
6 41 participation in negotiations and discussions with  
6 42 businesses.
- 6 43 e. Notify the department of economic development  
6 44 regarding proposed rulemaking activities that impact a  
6 45 regulatory program and any subsequent changes to a  
6 46 regulatory program.

6 47 2. By January 15 of each year, the department of  
6 48 economic development shall submit a written report to  
6 49 the general assembly regarding the provision of  
6 50 regulatory assistance by state agencies.>

7 1 #2. Title page, by striking lines 2 through 7 and  
7 2 inserting the following: 7 3 liability reform, workers' compensation, financial  
7 4 services, unemployment compensation employer  
7 5 surcharges, and economic development, and providing an  
7 6 effective date.>

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